

ILLINOIS POLLUTION CONTROL BOARD
October 3, 1972

COMMONWEALTH EDISON CO.)
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 v.) # 72-295
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 ENVIRONMENTAL PROTECTION AGENCY)

Opinion & Order on Motion for Interim Variance (by Mr. Currie):

A hearing has been authorized on this petition for extension and modification of a variance granted Oct. 14, 1971, Commonwealth Edison Co. v. EPA, # 71-129, 2 PCB 627, which approved a compliance program for the company's Will County and Powerton generating stations. The hearing has been postponed until October or November to enable the Agency to present the results of a detailed study of the Edison system to enable us better to assess the case. The 90-day period in which we must decide the case in the absence of a waiver will expire October 11. The company is unwilling to waive its right to a decision by that date unless we grant a corresponding extension of the variance so that it will not be subject to prosecution while litigating its right to a further extension. The request is reasonable and is not objected to by EPA. The 60-day extension will enable the Board to make a reasoned decision on the basis of a complete record, and the original order contemplated continuance of the program beyond October of this year. Edison filed its petition in time to secure a decision within the original variance period, and the hearing has been scheduled later to meet the needs of the EPA. Cf. GAF Corp. v. EPA, #71-11, 2 PCB 57 (June 28, 1971).

The variance granted October 14, 1971, as modified by the order of November 11, 1971, 3 PCB 53, is hereby extended for 60 days on condition that Edison on or before October 10, 1972 files a written waiver for the corresponding period of the right to a decision in the present case within 90 days.

I, Christian Moffett, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion & Order on Motion for Interim Variance this 3rd. day of October, 1972, by a vote of 5-0.

